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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

AUG 25 1995

In the Matter of)
Amendment of Section 73.202(b),)
Table of Allotments, FM)
Broadcast Stations)
(Monticello, Perry, Quincy,)
Woodville, Springfield,)
Appalachicola, and Trenton,)
Florida))

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

MM Docket No. 95-82
RM-8630

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To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

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REPLY COMMENTS OF FLORIDA RADIO PARTNERS, INC.

Florida Radio Partners, Inc. (Florida Radio), by its attorneys, now offers its reply comments in opposition to the "Comments and Counterproposal" filed by Great South Broadcasting, Inc. (Great South) on August 10, 1995.

Florida Radio is the licensee of FM broadcast station WDJY, Trenton, Florida. In a counterproposal offered in its August 10, 1995 comments, Great South asks the Commission to downgrade the WDJY allocation to a Class A allocation in order to accommodate Great South's stated desire to update its station. Great South's latest proposals should be rejected because (1) they are a dilatory attempt to reconsider the rulemaking proceeding in which the WDJY allocation was upgraded to a Class C2 allocation, (2) contrary to Great South's claim, Florida Radio has been searching for a transmitter site for the Class C2 allocation and has filed timely requests for additional time to file its upgrade application, and (3) Great South has not shown that any

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meaningful public interest benefits would flow from its latest proposals that would not be obtained from its original proposal.

On February 12, 1993, a petition for rulemaking was filed requesting that Channel 269C2 be allocated to Trenton, Florida in lieu of Channel 269A. In response, the Commission issued a Notice of Proposed Rulemaking, 8 FCC Rcd 2951 (MMB 1993) proposing to substitute Channel 269C2 for Channel 269A and modifying the license of WCWB(FM) (now WDJY) accordingly. The deadline for comments opposing that allocation was June 21, 1993. Neither Great South nor any other party filed comments opposing the substitution of Channel 269C2 for Channel 269A. The Commission therefore released a Report and Order, 8 FCC Rcd 6159 (MMB 1993) substituting Channel 269C2 for Channel 269A. Great South did not seek reconsideration or in any way oppose the Commission's action.

Great South filed its petition for rulemaking in this proceeding on April 6, 1995. In its original proposal, Great South proposed the allocation of Channel 268C2 to Woodville, Florida. Great South touted this proposal as providing the public interest benefit of providing a first full-time broadcast service to Woodville, Florida. The original proposal did not contemplate any downgrade of the Trenton allocation. In response, the Commission released a Notice of Proposed Rulemaking, 10 FCC Rcd 6595 (released June 19, 1995) on June 7, 1995 seeking further comments on the proposal.

Great South's August 10, 1995 comments now present two different proposals from the proposal on which comment was sought in the Notice of Proposed Rulemaking. Great South now offers two proposals that would involve downgrading the WDJY allocation to a Class A facility (or, alternatively, to a Class C3 facility). Great South now asks the Commission to allocate Channel 268C1 to either Quincy, Florida (its current community of license) or to Woodville, Florida. It argues that Florida Radio has "warehoused" the Class C2 allocation and that it forfeited the right to upgrade by not filing an application within ninety days after the Commission upgraded the allocation. Great South's arguments have no merit.

Great South claims that Florida Radio only filed one untimely letter asking the Commission to extend the time to file an upgrade application. In fact, Florida Radio has regularly filed timely letters asking the Commission to extend the time to file an upgrade application. Florida Radio filed such letters on January 14, 1994, March 14, 1994, September 14, 1994, March 2, 1995, and August 3, 1995. Copies of these letters (except for the March 2, 1995 letter, which was attached to Great South's comments) are attached to these reply comments. Florida Radio's timely extension requests distinguish it from Angelina Broadcasting Corporation, 1800B3-BFM, (issued June 9, 1993), the case cited by Great South. By submitting these letters, Florida Radio has preserved its right to apply for the Class C2 channel. Great South's

argument is based upon the false premise that Florida Radio failed to timely request additional time to file an application. Its argument must therefore be rejected.

While Great South is attempting to portray Florida Radio as being dilatory, it is Great South that has acted in a dilatory fashion. If Great South believed that the public interest would be better served by keeping the Trenton station as a Class A station, it had every opportunity to make that argument as a counterproposal two years ago in the Trenton rulemaking proceeding. It did nothing. The Commission should not consider Great South's proposal at this time when Great South failed to offer its proposal in the Trenton rulemaking proceeding and when Florida Radio has filed timely requests for additional time to file an upgrade application.

Another reason for rejecting Great South's proposal is that it has not shown any meaningful public interest benefits that would result from involuntarily downgrading the WDJY allocation. Great South does not allege that it would provide a first or second service to any populations. While its proposal to serve Woodville would provide a first service to that community, its original proposal, which did not contemplate any downgrade of the WDJY allocation, would also have provided the same public interest benefit. It even fails to show any meaningful benefit in terms of coverage to well-served areas. According to the Technical Statement of its consulting engineer, an upgrade to a Class C1 facility would

only increase the coverage of WXSX by 8.25% (24,064 divided by 291,615). In contrast, as noted in n.7 of the Technical Statement, upgrading WDJY to a Class C2 facility would increase its coverage area by at least 48.9 percent (14,919 divided by 30,505).¹ The greatest public interest benefit would result by allowing WDJY to upgrade to a Class C2 facility and by adopting Great South's original proposal to provide a first service to Woodville. Great South has certainly failed to show the existence of sufficient public interest benefits to justify the involuntary downgrading of the WDJY allocation.

The Commission will not consider requiring an involuntary change in transmitter site even if the change would further a public interest objective. Claremore, Oklahoma, et al., 3 FCC Rcd 4037, 4038 (MMB 1988). In contrast, a licensee seeking a channel upgrade can be forced to move to alternative sites if needed to accommodate other upgrades. Rockport, Texas, et al., 4 FCC Rcd 8075, 8076 (MMB 1989). Here, where Great South failed to object to the upgrade of the Trenton channel when the upgrade was proposed, and it has not attempted to show the unavailability of alternative sites that would allow both stations to upgrade, its proposal must be rejected.

Finally, the fact that an assignment application has been granted under which Florida Radio would sell the station is no

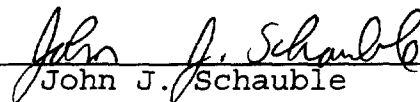
¹ Florida Radio believes that the population gains from upgrading WDJY to Class C2 status may in fact be greater than those claimed by Great South.

reason to accept Great South's proposal. The application was filed on April 18, 1995 (File No. BALH-950418GO) and granted on July 28, 1995. The closing is currently scheduled to take place on September 15, 1995. The right to upgrade a channel is not lost when a license is assigned. For example, the party that prosecuted the Class C2 upgrade of the Trenton channel was not Florida Radio but the prior licensee of the channel. The channel was not downgraded when Florida Radio became the licensee.

Accordingly, Florida Radio asks the Commission to reject Great South's counterproposals.

Respectfully submitted,

FLORIDA RADIO PARTNERS, INC.

By 
John J. Schauble

Bechtel & Cole, Chartered
1901 L Street, N.W., Suite 250
Washington, DC 20036
(202) 833-4190

Its Attorneys

Date: August 25, 1995

August 3, 1995

Secretary
FM-Branch
Mass Media Bureau
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Dear Sir:

On behalf of Florida Radio Partners, Inc. (FRPI), licensee of FM broadcast station WDJY-FM (formerly WCWB-FM) at Trenton, Florida, it is requested that the time for FRPI to file an application to upgrade to a Class C2 facility be extended to March 15, 1996.

By Report and Order in MM Docket No. 93-118, DA 93-883 (released August 23, 1993), the Commission substituted Channel 269C2 for Channel 269A at Trenton, Florida. Pursuant to an assignment application granted by the Commission, FRPI became the licensee of WCWB (FM) on November 9, 1993. Since that time, FRPI has been busy assuming control of the station's operations and seeking a suitable location for a new transmitter site. This has become an increasingly difficult task given the amount of wetlands and protected lands in the general area required for the new transmitter site. In addition, many of the insurance companies serving the state of Florida have either abandoned the State or placed very tough regulations in place as they pertain to location and grounding of the tower.

FRPI believes a suitable site can be acquired and a construction permit application filed within the next 180 days.

Accordingly, FRPI requests that the deadline to file an application for the construction permit to upgrade to Channel 269C2 be extended to March 15, 1996.

Respectfully submitted,



Larry Grimes
President
Florida Radio Partners, Inc.

cc: Larry Perry, Esq., Ron Shaffer



W. B. Grimes & Company

Established 1959

Larry Grimes - President

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September 13, 1994

Mr. Dennis Williams
Chief, FM Branch
Mass Media Bureau
Federal Communications Commission
1919 M Street, NW, Room 332
Washington, D.C. 20554

Dear Mr. Williams:

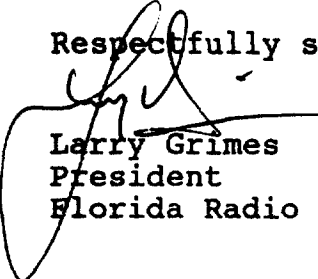
On behalf of Florida Radio Partners, Inc., (FRPI), licensee of FM broadcast station WDJY (formerly WCWB) at Trenton, Florida, it is requested that the time for FRPI to file an application to upgrade to a Class C2 facility be extended to March 15, 1995. An Anti-Drug Abuse Certification was previously filed. An updated certification is enclosed.

By Report and Order in MM Docket No. 93-118, DA 93-883 (released August 23, 1993), the Commission substituted Channel 269C2 for Channel 269A at Trenton, Florida, Pursuant to an assignment application granted by the Commission, FRPI became the licensee of WCWB (FM) on November 9, 1993. Since that time, FRPI has been busy assuming control over the station's operations, upgrading equipment and implementing new programming. Since the upgrade requires a change of transmitter site, FRPI has also been actively engaged in the search for a suitable site.

To date, FRPI has been unable to locate a site that is not severely restricted by wetlands and hereby requests an extension to extend their search for a suitable location. FRPI believes a suitable site can be acquired and a construction permit application filed within 180 days.

Accordingly, FRPI requests that the deadline to file an application for a construction permit to upgrade to Channel 269C2 be extended to March 15, 1995.

Respectfully submitted,


Larry Grimes
President
Florida Radio Partners, Inc.

LAW OFFICES

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March 14, 1994

Mr. Dennis Williams
Chief, FM Branch
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W., Room 332
Washington, D.C. 20554

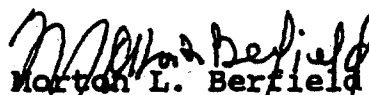
Dear Mr. Williams:

On behalf of Florida Radio Partners, Inc., (FRPI), licensee of FM broadcast station WCWB at Trenton, Florida, it is requested that the time for FRPI to file an application to upgrade to a Class C2 facility be extended to June 15, 1995.

By Report and Order in MM Docket No. 93-118, DA 93-883 (released August 23, 1993), the Commission substituted Channel 269C2 for Channel 269A at Trenton, Florida. Pursuant to an assignment application granted by the Commission, FRPI became the licensee of WCWB(FM) on November 9, 1993. Since that time, FRPI has been busy assuming control over the station's operations. Since the upgrade requires a change of transmitter site, FRPI has been actively engaged in the search for a suitable site. FRPI believes a suitable site can be acquired and a construction permit application filed within ninety days.

Accordingly, FRPI requests that the deadline to file an application for a construction permit to upgrade to Channel 269C2 be extended to June 15, 1995.

Respectfully submitted,


Morton L. Berfield
Counsel For Florida Radio
Partners, Inc.

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January 14, 1994

Mr. Dennis Williams
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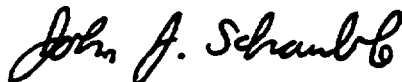
Dear Mr. Williams:

On behalf of Florida Radio Partners, Inc., (FRPI), licensee of FM broadcast station WCWB at Trenton, Florida, it is requested that the time for FRPI to file an application to upgrade to a Class C2 facility be extended to March 15, 1994.

By Report and Order in MM Docket No. 93-118, DA 93-883 (released August 23, 1993), the Commission substituted Channel 269C2 for Channel 269A at Trenton, Florida. Pursuant to an assignment application granted by the Commission, FRPI became the licensee of WCWB(FM) on November 9, 1993. Since that time, FRPI has been busy assuming control over the station's operations. Since the upgrade requires a change of transmitter site, FRPI has been actively engaged in the search for a suitable site. FRPI believes a suitable site can be acquired and a construction permit application filed within sixty days.

Accordingly, FRPI requests that the deadline to file an application for a construction permit to upgrade to Channel 269C2 be extended to March 15, 1994.

Respectfully submitted,



John J. Schauble
Counsel For Florida Radio
Partners, Inc.

CERTIFICATE OF SERVICE

I, Lee G. Petro, a law clerk employed by Bechtel & Cole, Chartered, do hereby certify that on the 25th day of August, 1995, a copy of the foregoing "Reply Comments of Florida Radio Partners, Inc." was sent first-class mail, postage prepaid to the following:

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Smithwick & Belendiuk, P.C.
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Washington, DC 20036
Counsel for Great South Broadcasting, Inc.


Lee G. Petro